

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1574 of 2015 ()

Crl.A 201/2015 of SESSIONS COURT,KOZHIKODE
MC 216/2012 of JUDL.MAG. OF FIRST CLASS, PAYYOLI

REVISION PETITIONERS/REVISION PETITIONERS/APPELLANT/RESPONDENTS:

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1. SELVARAJ, AGED 50 YEARS
S/O KOTTAKKAL KUTTY NADAR, PUTHANPURAYIAL HOUSE
IRINGAL AMSOM AND DESOM OF KOYILANDY TALUK
KOZHIKODE DISTRICT.
 2. JAYARAJAN, AGED 50 YEARS
S/O SUKUMARAN, POYIL THAZHAKUN KAVIL HOUSE
IRINGAL AMSOM AND DESOM OF KOYILANDY TALUK
KOZHIKODE DISTRICT.

BY ADV. SRI.MOHANAN V.T.K.

RESPONDENTS/RESPONDENT/RESPONDENT/PETITIONER:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

BY PUBLIC PROSECUTOR, SHRI.R.GITHESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
27-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.1574 of 2015

Dated this the 27th day of November 2015

ORDER

The revision petitioners are the respondents in M.C. No.216 of 2012 on the files of the court of the Judicial Magistrate of First Class, Payyoli. The revision petitioners were directed to pay a penalty of Rs.10,000/- each, by the learned Magistrate under Section 446 of the Code. The appeal filed against the said order was dismissed.

2. Heard both sides.

3. It is borne out from the records that the revision petitioners were the sureties for the release of the accused in S.T. No.76 of 2011 on the files of the Court of the

Judicial Magistrate of First Class - 1, Payyoli on bail.

However, thereafter, the accused did not appear before the learned Magistrate as directed by the court. In the said circumstances, the learned Magistrate issued notice to the revision petitioners on being satisfied that the bail bond had been forfeited. Notice was served on the revision petitioners. However, the revision petitioners did not appear before the learned Magistrate in response to the notice. The revision petitioners also did not submit any explanation to the show cause notice. In the said circumstances, the learned Magistrate directed the revision petitioners to pay penalty as above. Having gone through the order passed by the learned Magistrate as confirmed by the appellate court, I do not find any reason to hold that the order passed by the courts below directing the revision

petitioners to pay the penalty, suffers from any infirmity warranting interference by this Court.

4. The learned counsel for the revision petitioners has pleaded for leniency with regard to the quantum of penalty awarded by the courts below. The learned counsel has submitted that after the passing of the order impugned, the accused surrendered before the learned Magistrate and thereafter, the matter was settled. The report received from the learned Magistrate would show that the accused in S.T.No.76 of 2011 was acquitted by the trial court under Section 257 of the Code. Since the accused had surrendered before the court subsequent to the passing of the order by the learned Magistrate, I am of the view that leniency can be taken in the matter of penalty. The offence involved in S.T. No.76 of 2011 was the offence under

Section 138 of the Negotiable Instruments Act.

Considering the facts and circumstances of the case, I am of the view that the penalty imposed by the courts below can be modified and reduced, to secure the ends of justice and accordingly, I order so.

In the result, this revision petition stands allowed in part, modifying and reducing the penalty imposed by the courts below and remission is granted to the extent that each of the revision petitioners shall pay a penalty of Rs.1,000/- each under Section 446(3) of the Code. The revision petitioners shall pay the penalty as directed, within one month from today.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

dl/30.11.2015

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PA to Judge